

Date: May 21, 2010

At a meeting of the Wayne County Industrial Development Agency (the "Agency"), held on May 21, 2010, at 16 William Street, Lyons, New York 14489, the following members of the Agency were:

Present: Marvin Decker, David Spickerman, James Hoffman,
Willard Milliman, Robert Havrilla

Absent: None

Also Present: Tom Facer, VP, Pomona Packing, LLC; J. Morell, Esq.,
M. Churchill, D. Richards, J. VanDusen, M. Leisenring

After the meeting had been duly called to order, the Chairman announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to acquisition, renovation, construction and equipping of a certain industrial development facility more particularly described below (Pomona Packing, LLC 2010 Facility).

The following resolution was duly moved, seconded, discussed and adopted with the following members voting:

Voting Aye

Marvin Decker
David Spickerman
James Hoffman
Willard Milliman
Robert Havrilla

Voting Nay

RESOLUTION OF THE WAYNE COUNTY INDUSTRIAL DEVELOPMENT AGENCY APPROVING THE ACQUISITION, RENOVATION, CONSTRUCTION AND EQUIPPING OF A CERTAIN INDUSTRIAL DEVELOPMENT FACILITY FOR POMONA PACKING, LLC, A NEW YORK LIMITED LIABILITY COMPANY, AND APPROVING THE FORM, SUBSTANCE AND EXECUTION OF RELATED DOCUMENTS.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 916 of the Laws of 1969 of the State of New York, as may be amended from time to time (collectively, the "**Act**"), the Wayne County Industrial Development Agency (the "**Agency**"), was created with the authority and power among other things, to assist with the acquisition of certain industrial development projects as authorized by the Act; and

WHEREAS, there was submitted to the Agency, a proposal to undertake the providing and leasing of an industrial development facility to Pomona Packing, LLC, a New York limited liability company (the "**Company**"), consisting of the acquisition of three (3) existing buildings totaling approximately 64,500 square feet (the "**Buildings**"), located on an approximately 48 acre parcel of land located at 11814 West Main Street, Village of Wolcott, Wayne County, New York (more specifically identified as tax map number 75117-15-582379) (the "**Land**"), the construction of an approximately 988 square foot breezeway connecting the Buildings, and the renovation and equipping of the Buildings including, but not limited to, a new MAF fresh apple packing line, new warehouse style refrigerator compressors/motors and new taping and box folding machines (the "**Improvements and Equipment**"), to be leased by the Agency to the Company, and used by, the Company for the sizing, sorting and packaging of fresh apples for wholesale distribution (together with the Land, the Improvements and Equipment, the "**Facility**"); and

WHEREAS, the Company has agreed to lease the Facility to the Agency, pursuant to and in accordance with the Company Lease Agreement, dated as of June 1, 2010 or such other date as the Executive Director and counsel to the Agency shall agree (the "**Company Lease**"), by and between the Company and the Agency; and

WHEREAS, the Agency has agreed to sublease the Facility to the Company, pursuant to and in accordance with the Lease Agreement, dated as of June 1, 2010 or such other date as the Executive Director and counsel to the Agency shall agree (the "**Lease Agreement**"), by and between the Agency and the Company; and

WHEREAS, the Agency by a resolution duly adopted on April 30, 2010 (the "**Inducement Resolution**"), decided to proceed under the provisions of the Act to acquire, construct, equip and sublease the Facility pursuant to the Lease Agreement; and

WHEREAS, the Company has agreed to indemnify the Agency against certain losses, claims, expenses, damages and liabilities that may arise in connection with the transaction contemplated by the transfer of the leasehold interest to the Land (as such term is defined in

the Lease Agreement) and the Facility to the Agency and the lease of the Facility to the Company; and

NOW, THEREFORE, BE IT RESOLVED by the Agency (a majority of the members thereof affirmatively concurring) as follows:

Section 1. The Agency hereby finds and determines:

(a) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

(b) The Facility constitutes a "project", as such term is defined in the Act; and

(c) The acquisition, renovation, construction and equipping of the Facility and the subleasing of the Facility to the Company will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of Wayne County and the State of New York and improve their standard of living and thereby serve the public purposes of the Act; and

(d) The acquisition, renovation, construction and equipping of the Facility is reasonably necessary to induce the Company to maintain and expand its business operations in the State of New York; and

(e) Based upon representations of the Company and counsel to the Company, the Facility conforms with the local zoning laws and planning regulations of Wayne County and all regional and local land use plans for the area in which the Facility is located; and

(f) The Facility and the operations conducted therein do not have a significant effect on the environment, as determined in the accordance with Article 8 of the Environmental Conservation Law of the State of New York and the regulations promulgated thereunder; and

(g) It is desirable and in the public interest for the Agency to sublease the Facility; and

(h) The Company Lease is an effective instrument whereby the Company leases the Facility to the Agency; and

(i) The Lease Agreement is an effective instrument whereby the Agency subleases the Facility to the Company; and

(j) The Payment-in-Lieu-of-Tax Agreement, dated as of June 1, 2010 or such other date as the Executive Director and counsel to the Agency shall agree (the "**PILOT Agreement**"), by and between the Company and the Agency, in form satisfactory to the Executive Director and counsel to the Agency, will be an effective instrument whereby the Agency and the Company set forth the terms and conditions of their agreement regarding the Company's payments in lieu of real property taxes; and

(k) The Environmental Compliance and Indemnification Agreement, dated as of June 1, 2010 or such other date as the Executive Director and counsel to the Agency shall agree (the "**Environmental Compliance and Indemnification Agreement**"), by and between the Agency and the Company will be an effective instrument whereby the Company agrees to comply with all Environmental Laws (as defined therein) applicable to the Facility and will indemnify and hold harmless the Agency for all liability under all such Environmental Laws.

Section 2. In consequence of the foregoing, the Agency hereby determines to: (i) acquire a leasehold interest in the Facility pursuant to the Company Lease; (ii) execute, deliver and perform the Company Lease, (iii) sublease the Facility to the Company pursuant to the Lease Agreement, (iv) execute, deliver and perform the Lease Agreement, (v) execute, deliver and perform the PILOT Agreement, (vi) execute and deliver the Environmental Compliance and Indemnification Agreement and Indemnification Agreement.

Section 3. The Agency is hereby authorized to acquire a leasehold interest in and to the real property and personal property described in Exhibit A and Exhibit B, respectively, to the Lease Agreement and to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such acquisition, construction and equipping are hereby approved, ratified and confirmed.

Section 4. The form and substance of the Company Lease, the Lease Agreement, the PILOT Agreement and the Environmental Compliance and Indemnification Agreement (each in substantially the forms presented to the Agency and which, prior to the execution and delivery thereof, may be redated) are hereby approved.

Section 5.

(a) The Chairman, Executive Director, or any member of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Company Lease, the Lease Agreement, the PILOT Agreement and the Environmental Compliance and Indemnification Agreement, all in substantially the forms thereof presented to this meeting with such changes, variations, omissions and insertions as the Chairman, Executive Director, or any member of the Agency shall approve, and such other related documents as may be, in the judgment of the Chairman, the Executive Director and counsel to the Agency, necessary or appropriate to effect the transactions contemplated by this resolution (hereinafter collectively called the "**Agency Documents**"). The execution thereof by the Chairman, Executive Director, or any member of the Agency shall constitute conclusive evidence of such approval.

(b) The Chairman, Executive Director, or any member of the Agency are further hereby authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency (as defined in and pursuant to the Lease Agreement).

Section 6. The Chairman, Executive Director, or any member of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required or provided for by the provisions of the Agency Documents, and to

execute and deliver all such additional certificates, instruments and documents, pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Agency Documents binding upon the Agency.

Section 7. This resolution shall take effect immediately.

